

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION TWO**

JASON D. DODSON & JASON D.	)	
DODSON, JR., A MINOR & EVA RAINE	)	
DODSON-LOHSE, A MINOR AND	)	
AUGUST WILLIAM DAVIS DODSON, A	)	No. ED100952 and ED101143
MINOR, SAID MINORS APPEARING BY	)	
THE DULY APPOINTED NEXT FRIEND	)	
JASON D. DODSON,	)	
	)	
Plaintiffs/Respondents/Cross-Appellants,	)	Appeal from the St. Louis County
	)	Circuit Court
vs.	)	
	)	
ROBERT P. FERRARA, M.D., AND MERCY	)	Honorable Thea A. Sherry
CLINIC HEART AND VASCULAR, L.L.C.,	)	
	)	
Defendants/Appellants/Cross-Respondents.	)	Filed: July 21, 2015

**Opinion Summary**

Dr. Robert P. Ferrara and his employer, Mercy Clinic Heart and Vascular, LLC (Defendants) appeal the judgment of the trial court awarding Jason Dodson and his children (Plaintiffs) \$2,181,155 on their wrongful death action. Plaintiffs cross-appeal, challenging the constitutionality of § 538.210 RSMo (2005), which caps noneconomic damages in tort actions against healthcare providers at \$350,000.

TRANSFERRED.

**Division Two Holds:**

The Missouri Supreme Court has exclusive appellate jurisdiction in all cases involving the constitutionality of a state statute. We conclude that Plaintiffs' constitutional challenge was properly preserved, and that the equal protection challenge is real and substantial because it is a question of first impression. Therefore, this Court is without jurisdiction and must transfer to the Missouri Supreme Court.

Opinion by: Philip M. Hess, J.  
Sherri B. Sullivan, P.J. and Robert M. Clayton, III, J. concur.

Attorney for Appellant:	Paul N. Venker
	Lisa A. Larkin – Co-Counsel

Attorney for Respondents: Maurice B. Graham  
Patrick J. Hagerty – Co-Counsel  
John G. Simon – Co-Counsel  
Joan M. Lockwood – Co-Counsel  
Kaitlin A. Bridges – Co-Counsel

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**